

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
	)	No. 10-00244-01-CR-W-DW
	)	
EDWARD BAGLEY, SR,	)	
	)	
Defendant.	)	

**MOTION FOR ADDITIONAL TIME TO RESPOND TO REPORT AND  
RECOMMENDATION REGARDING EXPERT WITNESS**

COMES NOW the United States of America, by Beth Phillips, United States Attorney, and undersigned counsel, all for the Western District of Missouri, and hereby moves this court to grant the government two weeks (nine working days) to consider and prepare a response to the Report and Recommendation [Doc. 256] regarding the Defendant's Motion for Authorization of Funds to Retain an Expert Witness. The government offers the following suggestions in support of its motion for additional time.

1. Over a year ago, on November 10, 2010, the government provided notice that Dr. Park Dietz was retained as a criminal forensic psychiatrist and would "testify to the area of grooming/seduction of a victim" and "the differences in BDSM versus criminal sadism." (Status Conference, Doc. 85, p. 14-15.)

On December 10, 2010, the Government repeated this notice of Dr. Dietz's testimony in expert notice section of the Stipulations & Orders provided to the court. (Doc. 90, p. 3-4.) The government included notice again of the expert testimony for the areas of "Forensic Psychiatry & Criminal Sadism" and the "BDSM lifestyle and industry." Indeed, Defendant Bagley *also*

provided notice of his intention to retain and call experts in the area of “BDSM lifestyle v. criminal sexual sadist” and “forensic psychiatry.” (Doc. 90, p. 4.)

On February 16, 2011, the Government provided counsel for all defendants with a copy of Dr. Dietz’s CV via email. On March 22, 2011, the Government again provided a copy of Dr. Dietz’s CV in disseminated discovery.<sup>1</sup>

On October 12, 2011, the Government made Dr. Dietz’s expert report and updated CV available to all defendants. Counsel for Defendant Bagley picked up a copy of this discovery on October 26, 2011.

2. Over a year after the government’s notice of Dr. Park Dietz, on November 17, 2011, Defendant Edward Bagley filed a motion to retain funding from the court to retain an expert. This defendant’s motion was filed almost a year after his own notice was given to retain defense expert in the area of “BDSM lifestyle v. criminal sexual sadist” and “forensic psychiatry.” The defendant titled his motion the “Motion of Defendant Edward Bagley, Sr. for Authorization of Funds to Retain Expert Witness.” [Doc. 226.]<sup>2</sup> This motion was filed less than three months before the February 13, 2012 scheduled trial. The next day, on Friday, November 18, 2011, the Court issued an order for the parties to provide the court with additional information by Monday, November 21, 2011. [Doc. 227.] On Monday, the parties filed responses pursuant to the court order. [Doc. 229, 230.] Defendant Bagley also indicated that his chosen expert was not available to even begin his work until January 2012. On November 28,

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<sup>1</sup> In April 2011, counsel for the defendant indicated that she had lost the discovery and requested a replacement of the same discovery provided on March 22, 2011. Thus, she received another copy of Dr. Dietz’s CV on April 4, 2011.

<sup>2</sup> Docketed as “Motion for Psychiatric Exam of Defendant Edward Bagley, Sr.”

2011, Defendant Bagley filed reply suggestions [Doc. 238]. On December 14, 2011, the court issued a second order to Defendant Bagley for additional information. [Doc. 252.] On December 27, 2011, a Report and Recommendation was issued to this district court. [Doc. 259.]

2. Due to the pending trial scheduled to commence on February 13, 2012, this court expedited the time period to file a response, or otherwise object, to today, January 4, 2012. Government counsel was out of the office on December 27, 2011, when the Report and Recommendation was issued and did not return until yesterday, January 2, 2012.

3. On December 27, 2011, but subsequent to the court's Report and Recommendation being issued, Defendant Bagley filed a motion to continue the trial date to June 2012. The government and the remaining defendants all requested a September 2012 trial setting if the motion to continue the trial date is granted. While the motion to continue has not yet been ruled upon, all parties have agreed to a continuance of the trial date, and simply disagree on the date of the new setting. Thus, the sense of urgency which called for an expedited response from the parties has been eliminated.

4. The government needs time to both consult with its expert, Dr. Park Dietz and both consider and prepare a response for this court regarding the issued Report and Recommendation and thereby requests that this court grant additional time.

WHEREFORE, because the defendant's delay in retaining an expert is not the fault of the government and because the defendant has now filed a motion to continue the trial date eliminating the need for an expedited response, the government moves this court to allow the government two weeks (9 working days) to respond to the Report and Recommendation, to and including, January 18, 2012.

Respectfully submitted,

Beth Phillips  
United States Attorney

By */s/ Paul S. Becker*

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Paul S. Becker  
Assistant United States Attorney  
Chief, Violent Crimes Strike Force Unit

*/s/ Cynthia L. Cordes*

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Cynthia L. Cordes  
Assistant United States Attorney  
Human Trafficking Coordinator

*/s/ John Cowles*

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CLC:lm

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on January 4, 2012, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

*/s/ Cynthia L. Cordes*

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Cynthia L. Cordes  
Assistant United States Attorney